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TRANSCRIPT OF PROCEEDINGS

FEB - 1 1994

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

IN THE MATTER OF:

MM DOCKET NO. 93-75

TRINITY BROADCASTING OF FLORIDA, INC.  
and  
GLENDALE BROADCASTING COMPANY

DATE OF HEARING: January 12, 1994

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and  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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The above-entitled matter come on for hearing pursuant to Notice before Judge Joseph Chachkin, Administrative Law Judge, at 2000 L Street, N.W., Washington, D.C., in Courtroom 3, on Wednesday, January 12, 1994 at 9:30 a.m.

APPEARANCES:

On behalf of Trinity Broadcasting of Florida:

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EUGENE MULLIN, Esquire  
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1 APPEARANCES (continued):

2 On behalf of Mass Media:

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## I N D E X

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Norman Juggert				
By Mr. Cohen		3985		
By Mr. McCurdy		3987		
Dr. Armondo Ramirez				
By Mr. Topel	4006			
By Mr. Cohen		4007		
By Mr. Shook		4103		
By Mr. McCurdy		4115		
Philip David Espinoza				
By Mr. Topel	4123			
By Mr. Cohen		4124		

## E X H I B I T S

<u>Exhibit</u>	<u>Identified</u>	<u>Received</u>	<u>Rejected</u>
TBF Exhibit No. 125	4000	4004	

Hearing began: 9:30 a.m.

Hearing Ended: 4 p.m.

Lunch Break Began: 12:30 p.m.

Lunch Break Ended: 1:30 p.m.

## P R O C E E D I N G S

JUDGE CHACHKIN: Back on the record. Mr. Shook, did you have any further questions?

MR. SHOOK: No, Your Honor, I did not.

MR. COHEN: Your Honor.

JUDGE CHACHKIN: Yes.

MR. COHEN: Before you, you hear from Mr. McCurdy, I just wanted to make a request of you. You asked the witness a question yesterday to define affiliate. And prompt -- based -- that's what my notes reflect.

JUDGE CHACHKIN: Well, go ahead.

MR. COHEN: And based on your question, I would like to ask the witness a couple of questions which are, which are directly related to the question that you asked him. And I'll, I'll state what the questions are if, if you want me to now.

What I wanted to ask him was does the fact that loans are outstanding to program affiliates affect the definition? Because there are, there are a number of, of affiliates. And it's set forth in Joint Exhibit 1 or program affiliates. And loans are outstanding to them. And I wanted to know whether, whether that has any impact on the witness's answer.

JUDGE CHACHKIN: I think the witness made it very clear that the difference was arm's length and not arm's

1 length.

2 MR. COHEN: Well, and that was my next question.

3 JUDGE CHACHKIN: And the question was am I correct,  
4 sir, that those cases where loans were made to program  
5 affiliates who have no, no identical or majority directors on  
6 both, both entities that the loans that were made were, were  
7 made pursuant to arm's length transactions where agreements,  
8 written agreements were entered into, written loan agreements  
9 were entered into, and security arrangements also were  
10 involved.

11 MR. JUGGERT: That's correct.

12 MR. COHEN: Well, Your Honor, that was exactly what  
13 I wanted to follow up on. Because I think Joint Exhibit 1  
14 deals with that very matter. And I have -- it doesn't seem to  
15 me that the witness -- my understanding of Joint Exhibit 1  
16 doesn't -- I don't --

17 JUDGE CHACHKIN: What's Joint Exhibit 1?

18 MR. COHEN: Joint Exhibit 1, Your Honor, is the, is  
19 the --

20 UNIDENTIFIED SPEAKER: Financial information.

21 MR. COHEN: It's the financial information prepared  
22 by, pursuant to stipulation. It was prepared by Trinity's  
23 accountant. And if you'll look, Your Honor, he mentioned at  
24 page 28 of the document there is a recitation of various notes  
25 to program affiliates of TBN. And the only question I wanted

1 to ask the witness whether he was aware of this and whether he  
2 believed all of those dealings were arm's length dealings that  
3 are set forth commencing at paragraph 49.

4 JUDGE CHACHKIN: I'll permit him to -- permit you to  
5 ask the witness that question before we go to --

6 MR. COHEN: Well --

7 JUDGE CHACHKIN: Go ahead.

8 MR. COHEN: You've heard the colloquy between His  
9 Honor and myself. Would you please make available to the  
10 witness Joint Exhibit 1?

11 (Pause.)

12 MR. COHEN: Page 29, commencing at paragraph 48.  
13 I'd like you to read it to yourself if you would. Read from  
14 there -- read paragraph 48, 49 through the end of the, of the  
15 exhibit.

16 (Pause.)

17 MR. COHEN: Tell me when you've finished.

18 MR. JUGGERT: Yes.

19 JUDGE CHACHKIN: Just to be clear, talking about  
20 Joint Exhibit 1, that's a stipulation of all the parties.

21 MR. COHEN: That's right, Your Honor.

22 JUDGE CHACHKIN: As opposed to just a stipulation of  
23 two parties.

24 MR. COHEN: Correct. It was prepared by Trinity's  
25 accountant in order to avoid having a, the accountant testify.

1 MR. JUGGERT: How far did you want me to go?

2 MR. COHEN: To the end of the document.

3 MR. JUGGERT: Okay.

4 CROSS-EXAMINATION

5 BY MR. COHEN:

6 Q And I have a simple question for you. The answer  
7 may not be simple, but the question is simple.

8 A Okay, yes. I mean having studied all of the details  
9 where I see all the corporations named.

10 Q Well, the question I have is were all of these loans  
11 ones that were the results of arm's length bargaining if you  
12 know?

13 A Some of them I would have, I would have been  
14 involved in the bargaining with. And I know those were.  
15 Others were ones that I participated in in terms of drafting  
16 documents and was given the, the data from someone at Trinity  
17 Broadcasting Network.

18 Q So you wouldn't know then.

19 A I, I wouldn't know if there was negotiation by arm's  
20 length. I mean there were -- when I testified to arm's length  
21 relationship what I do know is that there are notes and  
22 security agreements and leases.

23 Q Well, what about -- oh, excuse me. Continue.

24 A For, for these, these program people.

25 Q Well, what about, what about favorable interest

1 rates, lower than market interest rates for example?

2 A I don't -- frankly, I don't know what the interest  
3 rate was when these loans were issued. And I don't know if  
4 more than favorable interest rates were given, given to these  
5 people.

6 Q You don't know.

7 A I don't know.

8 Q Well, you would agree that if, that if lower than  
9 market interest rates were given that that would not be an  
10 indicia of arm's length dealing. Would you agree with that?

11 A Not necessarily between religious organizations.  
12 Because the, the obligation -- the, the intent is not to make  
13 money off of another non-profit corporation to be secured  
14 being repaid. These all -- the interest rates that I've seen  
15 through here, that we've all seen seem to be fair interest  
16 rates.

17 Q Well, let me ask you another question. If as a  
18 condition of the loan the debtor was required to carry TBN  
19 programming for a specified period of time, would that be an  
20 indicia to you of arm's length dealing?

21 A Yes, it would. Because normally when that happens  
22 there is an affiliate agreement. And Trinity is assured of  
23 being paid its, its money.

24 Q So the way Trinity is assured it's being paid its  
25 money is to receive zip code receipts. Is that correct?

1           A     That is, that is one way. The other way is to  
2 foreclose if necessary.

3           Q     And so you've answered that question.

4           MR. TOPEL: Your Honor, I just want to put an  
5 objection on the record. Just this is way more than one  
6 question.

7           JUDGE CHACHKIN: Well, I, I wasn't -- frankly, I  
8 haven't looked at the joint agreement, the joint stipulation  
9 of the parties. And if this witness can shed some light on  
10 it, I don't see any problem with it.

11          MR. COHEN: I have no further questions, Your Honor.

12          JUDGE CHACHKIN: No further questions. And you  
13 certainly could explore it further if you want to on redirect.  
14 But I don't think the questions were asked -- I think they're  
15 more in nature of clarifying than anything else.

16          MR. TOPEL: Yeah, it was more an objection for  
17 procedural --

18          JUDGE CHACHKIN: Well, I understand. But it was a  
19 situation which apparently I raised from one of my questions.  
20 So I think it's appropriate under those circumstances that the  
21 area be explored. Any further cross-examination?

22          MR. McCURDY: I have a few questions.

23          JUDGE CHACHKIN: Go ahead.

24                               CROSS-EXAMINATION

25          BY MR. McCURDY:

1           Q     Mr. Juggert, I'd just like to clarify a couple of  
2 things. When did you first learn that National Minority was  
3 intended to be a minority controlled corporation?

4           A     Would have been back in, at its inception when Jane  
5 Duff telephoned me, hat would have been 1979, 1980, and  
6 informed me that I was to incorporate Translator TV, Inc., and  
7 she told me who the board members were going to be.

8           Q     Okay. And at that time, if I understand your  
9 testimony, you contacted Gammon and Grange to discuss the  
10 proper way to incorporate it.

11          A     I wrote them a letter.

12          Q     Okay, you wrote them a letter. And what did you ask  
13 them in that letter?

14          A     Well, the letter is of record. I asked them how  
15 this new corporation should inter-relate with Trinity  
16 Broadcasting Network. Who should own the, the equipment, if  
17 there were leases? Should, should the, the corporation own  
18 the property or should Trinity? Just are there any FCC  
19 ramifications that we should be aware of in forming this  
20 corporation.

21          Q     Okay, and was the issue of minority control  
22 discussed?

23          A     With Gammon and Grange?

24          Q     Yes.

25          A     No, that wasn't.

1 Q Okay. And did -- and you never requested any  
2 information on that point?

3 A No, I didn't.

4 Q Is there a member of the TBN board which has primary  
5 responsibility for reporting on the activities of FCC counsel  
6 currently?

7 A No, there isn't. Nobody has that designation.

8 Q And is there somebody in practice who does that?

9 A Well, I would say it would be primarily at this time  
10 Paul, Paul Crouch would be the person most in contact with  
11 Colby May.

12 Q Now you're familiar with the International Panorama  
13 TV major change application, correct?

14 A That was the original corporation that owned Channel  
15 40.

16 Q Right.

17 A Yes.

18 Q And in regards to that major change application  
19 there was a hearing? Do you recall that?

20 A No, I don't.

21 Q The -- you were on TBN's board at that time though?

22 A Yeah, I don't, I don't recall what, what the issues  
23 were at the hearing.

24 Q Okay. At that time, I think TBN or International  
25 Panorama TV which I understand was wholly owned and operated

1 by TBN, is that correct?

2 A TBN owned all of the stock for International  
3 Panorama, yes, and then elected the board members.

4 Q Okay. And were you a member of International, a  
5 board member of International Panorama?

6 A I can't say as I sit here.

7 Q Okay. That's a matter of record too. And at that  
8 time, I guess you moved the station to its present location in  
9 Santa Ana.

10 A That's correct.

11 Q Okay. And in regards to that move, you had to  
12 file -- a major change application was filed, correct?

13 MR. TOPEL: Your Honor, I'm going to object on the  
14 grounds --

15 MR. JUGGERT: Okay, now I know -- yes. Yes, it was.

16 JUDGE CHACHKIN: Is there an objection?

17 MR. TOPEL: I --

18 JUDGE CHACHKIN: How is this relevant to the issues?

19 MR. McCURDY: This is relevant because I'm trying to  
20 set a foundation for the state of mind basically of the board  
21 and how it viewed FCC counsel, its relationship to FCC  
22 counsel. In this case, it's -- similar to the present one  
23 where FCC counsel is basically taking all the blame for advice  
24 given to TBN.

25 JUDGE CHACHKIN: Well, I'll overrule the objection,

1 see where we go. You can make another objection if this  
2 doesn't --

3 MR. TOPEL: I'd like --

4 JUDGE CHACHKIN: -- bear fruit.

5 MR. TOPEL: -- the record to reflect my position  
6 that I don't think that's an accurate characterization --

7 JUDGE CHACHKIN: Well, we'll see what it's --

8 MR. TOPEL: -- the decision, the --

9 JUDGE CHACHKIN: I'm -- counsel's statements are not  
10 testimony in the record.

11 MR. McCURDY: Okay. I mean I'm not going too far.  
12 I'm just --

13 JUDGE CHACHKIN: Well, go ahead.

14 MR. McCURDY: Okay.

15 BY MR. McCURDY:

16 Q Now if you'll recall during this hearing it was  
17 disclosed that TBN had falsified community, community leader  
18 ascertainment forms. Do you recall that?

19 A I remember that a Tim Flynn as I recall had done  
20 something like that.

21 Q Okay. And it was also disclosed during this hearing  
22 that there was a I guess you could call it a significant  
23 breakdown in communications between Gammon and Grange and the  
24 TBN board.

25 A I don't, I don't recall that.

1 Q Okay. Well, at -- I'll try to refresh your memory.  
2 At that time, Tim Flynn was conducting most of the  
3 communications with FCC counsel with Gammon Grange. And  
4 that -- and he was not a member of the board, correct?

5 A No, Tim was never a member of the board.

6 Q Okay. And he was not an officer, do you recall?

7 A I don't believe he was.

8 Q Okay. And there were some communications between  
9 Gammon and Grange concerning the filling out of these  
10 ascertainment forms which was reportedly never made, never  
11 communicated to the TBN board. Do you recall that?

12 A Well, I, I recall the accusations against Mr. Flynn,  
13 and the conduct that he was charged with was something I  
14 wasn't aware of until I heard about the results of that  
15 hearing.

16 Q Okay. I mean my question is as a result of that  
17 hearing, what actions did the TBN board to streamline its  
18 communication with FCC counsel?

19 A I can't, I can't recall what was, what was done that  
20 was, that was different back, back then. I don't know -- I  
21 can't recall back that far.

22 Q Do you recall any discussions concerning the case  
23 and --

24 A With respect to Tim Flynn?

25 Q Yeah. Well, respect -- with respect to your

1 communicating with FCC counsel.

2 A No, I don't.

3 MR. McCURDY: Okay. I have no further questions.

4 JUDGE CHACHKIN: Any redirect?

5 MR. McCURDY: I -- I'm sorry.

6 JUDGE CHACHKIN: Oh, you have further questions.

7 MR. McCURDY: I have further questions.

8 JUDGE CHACHKIN: Oh, go ahead.

9 BY MR. McCURDY:

10 Q Now with regards to the low-power television, in  
11 1984, National or Translator Television, Inc. claimed a  
12 minority preference for the low-power television lottery. Do  
13 you recall --

14 A Who?

15 Q Translator Television, Inc.

16 A Um-hum.

17 Q Claimed a preference in the low-power lottery in  
18 1984. And my only question is at the time that these  
19 applications were filed by TTI, were you aware that the FCC  
20 had awarded a preference for minority-owned applicants?

21 A No.

22 Q Now, I'd like to turn your attention to the time  
23 period in which the Odessa, purchase of the Odessa application  
24 was being considered. When were you first advised that NMTV  
25 was considering the purchase of the Odessa firm?

1 A I can't recall.

2 Q Did you play any role in that transaction?

3 A I believe there were, was a board meeting that I  
4 attended where there were minutes regarding Odessa.

5 Q Okay. Was there a TBN board meeting?

6 A I think there was.

7 Q And this was discussed at the TBN board meeting?

8 A I think maybe just a loan was discussed.

9 Q Okay. And was there any discussion concerning the  
10 multiple ownership rule in that meeting?

11 A No.

12 Q Was there -- because at that time TBN owned 12 full-  
13 powered stations, correct?

14 A Let's see, what year was that?

15 Q This is 1987.

16 A I believe they did.

17 Q Okay. And you were aware at that time, weren't you,  
18 that 12 was the maximum number of stations that a single  
19 entity can control, correct?

20 A I remember that when we arrived at 12, whenever that  
21 was, that I was informed that this was the maximum number.

22 Q Okay. Now when NMTV was considering purchasing a  
23 full-powered -- my question did you -- did it occur to you to  
24 ever ask whether this was permissible under FCC regulations?

25 A No, I, I didn't.

1 Q Were you ever advised by FCC counsel on the  
2 permissibility of that purchase?

3 A I personally was not.

4 Q Okay. Do you remember any discussions at TBN where  
5 this was brought up or this was discussed?

6 A No, not that I -- no, I can't.

7 Q Okay. So you never reviewed -- and you never  
8 reviewed any written legal memorandum from FCC counsel  
9 concerning this issue?

10 A No.

11 Q Okay. And now you also said that you researched the  
12 de facto control --

13 A Yes.

14 Q -- issue for the first time several weeks ago?

15 A Yes.

16 Q I guess my question is was that the first time  
17 you've ever researched that issue?

18 A Yes, it is.

19 Q Okay. In regards to anything concerning TBN  
20 activities?

21 A Or, or any corporation.

22 Q Or any --

23 A Any, any amount of profit.

24 MR. McCURDY: Okay. I have no further questions.

25 MR. TOPEL: Can I have just one minute?

1 JUDGE CHACHKIN: Yes. Before you do so, I'd like to  
2 ask you a question, sir.

3 MR. JUGGERT: Sure.

4 JUDGE CHACHKIN: You said you were not aware that  
5 Translator TV was established in order to apply for  
6 translators and low-power television?

7 MR. JUGGERT: No, I was, I was well aware that  
8 that's -- that was a very, very -- at the very outset that was  
9 known. I think what I answered was that I was not aware in  
10 1984 that it was, that it was claiming a preference --

11 JUDGE CHACHKIN: I see.

12 MR. JUGGERT: -- for low-power stations.

13 JUDGE CHACHKIN: Were you aware of the Commission's  
14 preference policy at the time that TTI was formed in  
15 September 16th, 1988 and 1980?

16 MR. JUGGERT: At that time, yes, Jane Duff had told  
17 me in '86, '87, '88 there was a preference.

18 JUDGE CHACHKIN: What about at the time that the,  
19 you had your meeting of the board in which you discussed  
20 Commission policy. Wasn't the policy you discussed the policy  
21 concerning the low-power television?

22 MR. JUGGERT: At the, at the very outset? At the --

23 JUDGE CHACHKIN: Yes.

24 MR. JUGGERT: I wasn't at that organizational  
25 meeting.

1 JUDGE CHACHKIN: I thought you were listed as --

2 MR. SHOOK: Your Honor, you two may be talking about  
3 different meetings. I believe the meeting you have in mind is  
4 the September 11, 1980 meeting of the Trinity Broadcasting  
5 Network board.

6 JUDGE CHACHKIN: That's right.

7 MR. SHOOK: And Mr. Juggert is referring to a  
8 meeting of Translator TV which took place a week later when  
9 the corporation was organized. So you're just talking about  
10 two different meetings.

11 JUDGE CHACHKIN: Oh, I'm talking about -- what is  
12 the, the number of that meeting of the board?

13 MR. SHOOK: It's in Volume 1, Your Honor. I believe  
14 it is Mass Media Exhibit 5.

15 (Pause.)

16 JUDGE CHACHKIN: What I have referenced to, sir,  
17 this is your signature.

18 MR. JUGGERT: Yes.

19 JUDGE CHACHKIN: Showing that you took these  
20 minutes, special meeting.

21 MR. JUGGERT: What number is that?

22 JUDGE CHACHKIN: No. 5.

23 MR. JUGGERT: I got book 5.

24 (Pause.)

25 JUDGE CHACHKIN: Now what I have referenced is, is

1 the, the second paragraph.

2 MR. JUGGERT: Yes.

3 JUDGE CHACHKIN: Where the board considered recent  
4 action by the FCC in changing rules applicable to translators.  
5 The board discussed the potential for new outlets these  
6 changes provide. Now what do you recall concerning what was  
7 discussed in this, in this regard?

8 MR. JUGGERT: The only recollection I have back at  
9 that time in terms of, of regulations was the thought that  
10 these translator stations could be used to receive satellite  
11 feed and, and also possibly do local programming.

12 JUDGE CHACHKIN: And was there any discussion  
13 concerning the advantage of having a minority-controlled  
14 entity applying for these, these, applying for these  
15 applications?

16 MR. JUGGERT: I remember absolutely --

17 JUDGE CHACHKIN: These facilities.

18 MR. JUGGERT: -- no conversation along that line at  
19 all.

20 JUDGE CHACHKIN: So at, at the time of this meeting,  
21 there was no discussion of Mr. May's -- there was no  
22 discussion of the notice of proposed rule making which of 1980  
23 which Mr. May -- was there any discussion concerning knowledge  
24 derived from Mr. May as to what the Commission had adopted?

25 MR. JUGGERT: Not that I, not that I can recall.

1 JUDGE CHACHKIN: So to your knowledge as far as  
2 you're concerned, the establishment of the discussions  
3 concerning the establishment of an entity to apply for  
4 translators had nothing to do with any action of the  
5 Commission in connection with priority given to minorities.

6 MR. JUGGERT: The establishment of Translator TV.

7 JUDGE CHACHKIN: Yes. The filing application of  
8 Translator TV. The decision to establish Translator TV.

9 MR. JUGGERT: That's, that's correct.

10 JUDGE CHACHKIN: Had nothing to do with the fact  
11 that the Commission had issued a rule making saying in which  
12 they indicated that minorities would have a preference.

13 MR. JUGGERT: That's correct. I, I did testify that  
14 the president had told me before that meeting about his  
15 conversation with the former FCC commissioner and being told  
16 that, that it was FCC policy to encourage minority and  
17 ownership and female ownership. That was before Translator  
18 was formed.

19 JUDGE CHACHKIN: And Ms. -- in your conversation  
20 with Ms. Duff you stated you did discuss preferences given to  
21 minorities.

22 MR. JUGGERT: That was in, somewhere in 1986, '87,  
23 '88.

24 JUDGE CHACHKIN: But you don't have any recollection  
25 of what recent action by the FCC was discussed at this board

1 meeting.

2 MR. JUGGERT: No, I don't. Not at this time.

3 JUDGE CHACHKIN: But the notes do indicate that in  
4 fact there was discussion of action by the FCC at this  
5 meeting.

6 MR. JUGGERT: That, that is correct.

7 JUDGE CHACHKIN: All right, go ahead. Redirect.

8 (Pause. Asides.)

9 MR. TOPEL: Your Honor, I'd like to have marked for  
10 identification as Trinity Broadcasting of Florida Exhibit 125  
11 I believe.

12 (Whereupon, the document referred to  
13 as Trinity Broadcasting Exhibit No.  
14 125 was marked for identification.)

15 JUDGE CHACHKIN: You say 125?

16 MR. TOPEL: Yes, Your Honor. That's what our  
17 records indicate. A 10-page document which consists of  
18 excerpts from the deposition of Mr. Juggert in this  
19 proceeding.

20 JUDGE CHACHKIN: You're using this to impeach Mr.  
21 Juggert. Is that --

22 MR. TOPEL: No. No, not at all, Your Honor. I'll  
23 explain --

24 JUDGE CHACHKIN: Well, that's what I thought -- oh,  
25 go ahead.

1 MR. TOPEL: I'll explain it.

2 JUDGE CHACHKIN: Well, the document described by  
3 counsel and marked for identification is Trinity Exhibit 125.

4 MR. TOPEL: Thank you, Your Honor. During cross-  
5 examination, Mr. Cohen read into the record a portion of Mr.  
6 Juggert's deposition testimony that appeared at page 58. Mr.  
7 Cohen neglected to point out that --

8 MR. COHEN: Can I just find it please?

9 JUDGE CHACHKIN: Have you had an opportunity to look  
10 at this material?

11 MR. COHEN: This material?

12 JUDGE CHACHKIN: Just given to you today.

13 MR. COHEN: No, I'm reading it right now as we  
14 speak.

15 JUDGE CHACHKIN: Well, I think we might as well go  
16 off the record and afford the parties an opportunity to --

17 MR. COHEN: There's 10 pages. I'd like to --

18 JUDGE CHACHKIN: -- review it before --

19 MR. TOPEL: It's from the deposition --

20 JUDGE CHACHKIN: I understand. But Mr. Cohen hasn't  
21 had a chance to see the deposition --

22 MR. COHEN: I mean I don't have that deposition  
23 memorized.

24 JUDGE CHACHKIN: -- to, to argue about it. And  
25 we'll go off the record so we all can read it.

1           MR. COHEN: Could I ask Mr. Topel whether there's  
2 going to be any other references? He, he mentioned 58. Are  
3 there any other references that I should read in --

4           MR. TOPEL: Yes.

5           MR. COHEN: Thank you.

6           MR. TOPEL: You also read into the record page 59,  
7 line 15.

8           MR. COHEN: Anything else?

9           MR. TOPEL: That's it.

10          MR. COHEN: Okay. Thank you.

11          COURT REPORTER: Off the record?

12          JUDGE CHACHKIN: Yes, we're off the record.

13          (Off the record at 10:00 a.m. Back on the record at  
14 10:01 a.m.)

15          JUDGE CHACHKIN: -- on the record. Go ahead, Mr.  
16 Topel.

17          MR. TOPEL: Basically when Mr. Cohen read a portion  
18 of line 58 into the record, he neglected to point out that he  
19 had conducted six additional pages of examination on his own  
20 initiative to clarify that testimony which did clarify it and  
21 which substantially negates the purpose for which Mr. Cohen  
22 read the section from page 58 into the record. We -- the  
23 clarifying testimony appears at pages 1 through 6 of TBF  
24 Exhibit 125, and we believe that should be included in the  
25 record.